

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

MARK ANTHONY ORTEGA,

Plaintiff,

vs.

JOHN DOE,

Defendant.

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SA-24-CV-00662-FB

SHOW CAUSE ORDER

Before the Court is the above-styled cause of action, which was referred to the undersigned for all pretrial proceedings. Plaintiff, proceeding *pro se*, filed this case against Defendant John Doe on June 10, 2024. The record reflects that the Court granted Plaintiff's *pro se* motion for leave to serve a third-party subpoena in order to identify the true identity of Defendant on July 23, 2024. (Order [#5].) Under Rule 4(m) of the Federal Rules of Civil Procedure, Plaintiff had until September 8, 2024, to serve Defendant with process. Plaintiff's motion for leave to serve the third-party subpoena did not request an extension of time to serve Defendant. Nor did the Court's order extend the time for service. Accordingly, the time to serve Defendants has elapsed under the Federal Rules, and it does not appear Plaintiff has completed service as required.

Under Rule 4(m) of the Federal Rules of Civil Procedure, if service of summons and complaint is not made upon a defendant within 90 days after a complaint is filed, after giving notice to plaintiff, the court must dismiss the action without prejudice or direct that service be effected within a specified time. Fed. R. Civ. P. 4(m). If the plaintiff shows good cause for the

failure, the court shall extend the time for service for an appropriate period. *Id.* Furthermore, a district court may dismiss an action for failure to prosecute or to comply with any order of the court. *McCullough v. Lynaugh*, 835 F.2d 1126, 1127 (5th Cir. 1988) (per curiam); Fed. R. Civ. P. 41(b). The Court will therefore order Plaintiff to show cause as to why this case should not be dismissed for want of prosecution pursuant to Rule 4(m) and Rule 41(b). If Plaintiff is able to show good cause for the failure to comply with the Federal Rules of Civil Procedure, the Court will extend the time for service.

IT IS THEREFORE ORDERED that Plaintiff show cause as to why this case should not be dismissed for want of prosecution **on or before December 19, 2024.**

SIGNED this 5th day of December, 2024.



ELIZABETH S. ("BETSY") CHESTNEY
UNITED STATES MAGISTRATE JUDGE